

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
JOHN YUNG,

Petitioner,

**MEMORANDUM & ORDER**

-against-

24-CV-3004 (RER)

MAYOR ADAMS NYC, NYC DEPT OF  
CORRECTIONS, THE PEOPLE OF NY,

Respondents.

-----X

RAMÓN E. REYES, JR., United States District Judge:

On April 2, 2024, Petitioner John Yung, appearing *pro se*, filed this petition for a writ of habeas corpus in the United States District Court for the Southern District of New York, challenging his detention on Riker's Island under Indictment No. 71296/2023. (ECF No. 1 ("Pet.")). On April 23, 2024, the petition was transferred to this Court. (ECF Order dated 4/23/2024). On May 24, 2024, Petitioner paid the filing fee to commence this action. (ECF No. 9). For the reasons set forth below, the petition is dismissed without prejudice.

**DISCUSSION**

"Federal courts may grant habeas relief pursuant to 28 U.S.C. § 2241 to prisoners 'in custody in violation of the Constitution or laws or treaties of the United States.' 28 U.S.C. § 2241(c)(3). Section 2241 can supply relief for state pretrial detainees." *Dawson v. Toulon*, No. 22-CV-6341 (GRB), 2022 WL 17177839, at \*2 (E.D.N.Y. Nov. 22, 2022) (quoting *York v. Warden Shannon*, No. 22-CV-2663 (PKC), 2022 WL 16715921, at \*1 (E.D.N.Y. Nov. 4, 2022); see also *Fredricks v. Hallett*, No. 21-CV-3690 (SLT), 2021 WL 2000074, at \*2 (S.D.N.Y. May 17, 2021). However, "[a] petitioner seeking relief under 28 U.S.C. § 2241 must exhaust available state court remedies." *York*, 2022 WL 16715921,

at \*1 (citations omitted); see also *Soto v. Warden, New York City Dep't of Correction*, No. 21-CV-4068 (PKC), 2021 WL 4192861, at \*2 (E.D.N.Y. Aug. 10, 2021).

“Under New York law, a prisoner may bring a petition for a writ of habeas corpus in the New York State Supreme Court, pursuant to Article 70 of New York’s Civil Practice Law and Rules, on the ground that a condition of his confinement is unlawful.” *Grafton v. Dzurenda*, No. 20-CV-3052 (MKB), 2020 WL 9816012, at \*2 (E.D.N.Y. Dec. 11, 2020).

Here, Petitioner seeks his “immediate release” and alleges that he has been “imprisoned since Jan. 8, 2024 without bail set.” (Pet. at 1). Petitioner also challenges the effectiveness of his attorney. (*Id.*) However, Petitioner does not plead facts showing that he has fully exhausted his claims in state court.

In addition, Petitioner seeks the Court’s intervention in his pending state court proceeding.<sup>1</sup> (Pet. at 2). In *Younger v. Harris*, 401 U.S. 37 (1971), the United States Supreme Court held that a federal court may not enjoin a pending state court criminal proceeding in the absence of “special circumstances suggesting bad faith, harassment, or irreparable injury that is both serious and immediate.” See *Heicklen v. Morgenthau*, 378 F. App’x 1, 1 (2d Cir. 2010) (quoting *Gibson v. Berryhill*, 411 U.S. 564, 573-74 (1973)). Petitioner does not allege any facts suggesting bad faith, harassment, or irreparable injury. The Court, therefore, finds no proper basis for intervention in Petitioner’s ongoing criminal proceeding. See, e.g., *Torres v. New York*, No. 23-CV-9380 (LTS), 2024 WL 22088, at \*3 (S.D.N.Y. Jan. 2, 2024).

---

<sup>1</sup> According to the New York City Department of Correction’s website, Petitioner is in custody at the Otis Bantum Correctional Center on Riker’s Island under Indictment No. 71296/2023 before the New York State Supreme Court, Kings County, and his next court date is June 20, 2024. See <https://a073-ils-web.nyc.gov/inmatelookup/pages/home/home.jsf> (last visited Jun. 12, 2024).

**CONCLUSION**

Accordingly, the Petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2241 is dismissed without prejudice. A certificate of appealability shall not issue because the Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253. *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003).

The Court certifies pursuant to 28 U.S.C. § 1915(a) that any appeal would not be taken in good faith and, therefore, *in forma pauperis* is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to enter judgment, mail a copy of this Order to Petitioner, and close this case.

SO ORDERED.

Hon. Ramón E. Reyes, Jr. Digitally signed by Hon. Ramón E. Reyes, Jr.  
Date: 2024.06.14 16:52:25 -04'00'

---

RAMÓN E. REYES, JR.  
United States District Judge

Dated: June 14, 2024  
Brooklyn, New York